

1 KEKER & VAN NEST LLP
ROBERT A. VAN NEST - # 84065
2 rvannest@kvn.com
CHRISTA M. ANDERSON - # 184325
3 canderson@kvn.com
DANIEL PURCELL - # 191424
4 dpurcell@kvn.com
633 Battery Street
5 San Francisco, CA 94111-1809
Telephone: (415) 391-5400
6 Facsimile: (415) 397-7188

7 KING & SPALDING LLP
BRUCE W. BABER (pro hac vice)
8 bbaber@kslaw.com
1185 Avenue of the Americas
9 New York, NY 10036
Tel: (212) 556-2100
10 Fax: (212) 556-2222

11 Attorneys for Defendant
GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,
16 Plaintiffs,
17 v.
18 GOOGLE INC.,
19 Defendant.

Case No. CV 10-03561 WHA

**[PROPOSED] ORDER GRANTING
DEFENDANT GOOGLE INC.'S MOTION
IN LIMINE NO. 6 TO EXCLUDE
PORTIONS OF EXPERT REPORT AND
TESTIMONY OF JAMES
MALACKOWSKI**

Hearing: April 27, 2016
Dept. Courtroom 8, 19th Fl.
Judge: Hon. William Alsup

1 Before the Court is Defendant Google Inc.'s Motion pursuant to Federal Rules of
2 Evidence 401, 403 and 702, as well as case law interpreting those rules, for an order excluding in
3 limine certain portions of the damages expert report and testimony of James Malackowski
4 submitted by Oracle America, Inc. ("Oracle") in this case. Having considered the Motion, the
5 pleadings on file and any other relevant materials, the Court hereby **GRANTS** Google's Motion
6 and hereby excludes: (1) the expert testimony and report of Mr. Malackowski as to the causal
7 nexus between the alleged infringement and Android-related advertising revenues; (2) the expert
8 testimony and report of Mr. Malackowski as to his analysis of apportionment, including under the
9 legal theory of commingling; (3) the expert testimony and report of Mr. Malackowski as to
10 Oracle's actual damages suffered in lost Java ME licensing revenues; and (4) the expert testimony
11 and report of Mr. Malackowski as to his opinion concerning Oracle's actual damages related to
12 Project Acadia.

13 **IT IS SO ORDERED.**

14 Dated:

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16 By: HON. WILLIAM ALSUP
17 UNITED STATES DISTRICT JUDGE
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